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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

DelDuca et al.

Serial No.: 08/763,719

Filed: December 13, 1996

For: MODIFIED ATMOSPHERE PACKAGE

Group Art Unit: 1306

Examiner: Drodge, J.

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COMMENTS ON STATEMENT OF REASONS FOR ALLOWANCE

Assistant Commissioner for Patents
Washington, DC 20231

Sir:

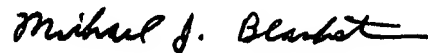
In determining obviousness, the claimed invention must be considered as a whole.

Therefore, it is not *just* the language "substantially totally enclose" in claims 1 and 9 and "sealing said first package" in claim 10 that patentably distinguishes these claims from the prior art.

Rather, the above language in combination with the other claimed features patentably distinguishes the claims from the prior art. For example, with respect to claim 1, the prior art fails to teach or suggest the claimed combination of a first package, a second package, and an oxygen scavenger, wherein the first package is configured and sized to substantially totally enclose a retail cut of raw meat and includes a non-barrier portion substantially permeable to oxygen; wherein the second package covers the first package and is substantially impermeable to

oxygen, the second package creating a pocket between the first package and the second package, the pocket being substantially free of oxygen solely in response to the pocket being flushed with one or more gases creating a modified atmosphere within the pocket; and wherein the oxygen scavenger is positioned external to the first package to substantially absorb residual oxygen within the pocket, the oxygen scavenger being activated with an oxygen uptake accelerator.

Respectfully submitted,



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